

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

ROMERO MONTE THOMAS,

Plaintiff,

v.

LELAND JURVA, et al.,

Defendants.

Case No. 2:24-cv-35

HON. JANE M. BECKERING

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**OPINION AND ORDER**

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendants filed a motion for summary judgment, arguing that Plaintiff failed to properly exhaust his administrative remedies with respect to his Eighth Amendment deliberate indifference claim against them. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court grant the motion and dismiss this case. The matter is presently before the Court on Plaintiff's two objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which his objections have been made. The Court denies the objections and issues this Opinion and Order.

In his objections, Plaintiff first emphasizes that he timely filed grievance AMF-21-02-0191-26A (Pl. Obj., ECF No. 25 at PageID.224), but his objection is misplaced. The timeliness of grievance AMF-21-02-0191-26A is irrelevant where the Magistrate Judge held, consistent with an earlier decision, that grievance AMF-21-02-0191-26A did not exhaust Plaintiffs' present claim

(R&R, ECF No. 24 at PageID.219–220). Plaintiff points out that the Michigan Department of Corrections (MDOC) lacks any provision for prisoners to supplement or refile existing grievances to reflect new information, an omission that Plaintiff opines permits the MDOC to impose a “severe technicality” against him (Pl. Obj., ECF No. 25 at PageID.226–228), but Plaintiff’s mere point likewise fails to demonstrate any factual or legal error in the Magistrate Judge’s analysis or conclusion. Plaintiff’s first objection is therefore properly denied.

Second, Plaintiff contends that the Magistrate Judge failed to address a “notarized letter that was submitted in attachment of the [second] grievance” (Pl. Obj., ECF No. 25 at PageID.229–230). Plaintiff’s contention also fails to reveal any error requiring a different result in this case where the Magistrate Judge determined that the MDOC rejected the grievance as untimely, in accordance with policy (R&R, ECF No. 24 at PageID.222–223). Specifically, the Magistrate Judge indicated that Plaintiff “stated in his grievance that the incident occurred on January 29, 2021, but he waited until October 19, 2023, to file a grievance against Defendants” (*id.*). Plaintiff’s second objection is also properly denied.

Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211–12 (2007). Therefore:

**IT IS HEREBY ORDERED** that the Objections (ECF No. 25) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 24) is APPROVED and ADOPTED as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Motion for Summary Judgment (ECF No. 12) is GRANTED for the reasons stated in the Report and Recommendation.

**IT IS FURTHER ORDERED** that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: September 16, 2024

/s/ Jane M. Beckering  
JANE M. BECKERING  
United States District Judge